

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petitions of Verizon Telephone Companies)	WC Docket No. 06-172
For Forbearance Pursuant to 47 U.S.C. § 160(c))	DA 06-2056
in the Boston, New York, Philadelphia, Pittsburgh,)	
Providence and Virginia Beach Metropolitan)	
Statistical Areas)	

**COMMENTS OF
ADHOC TELECOMMUNICATIONS USERS COMMITTEE**

Pursuant to the Commission’s October 18, 2006 Public Notice¹ in the docket captioned above, the AdHoc Telecommunications Users Committee (“AdHoc” or “the Committee”) submits these Comments in support of the motion to dismiss filed by ACN Communications Services, Inc. *et al.* and the motion to compel filed by Broadview Networks, Inc. *et al.* (the “CLEC Parties”). Because Verizon has withheld from interested parties, including AdHoc, the very data upon which it relies most heavily to justify the petitions for forbearance captioned above, and in violation of the Commission’s protective order in this docket,² the Commission must grant the motion to dismiss. Alternatively, if the Commission instead compels Verizon to comply with the Commission’s protective order and

¹ *Pleading Cycle Established for Comments on Motion to Compel Disclosure of Confidential Information Pursuant to Protective Order and Motion to Dismiss*, WC Docket No. 06-172, Public Notice, DA No. 06-2056 (rel. Oct. 18, 2006).

² *Petitions of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Boston, New York, Philadelphia, Pittsburgh, Providence and Virginia Beach Metropolitan Statistical Areas*, WC Docket No. 06-172, Protective Order, DA 06-1870 (rel. Sept. 14, 2006) (“*Protective Order*”).

disclose the evidentiary basis for its petitions, the Commission must require disclosure not only to the CLEC parties who filed the motion to compel but to non-CLEC parties like AdHoc as well.

In compliance with the Commission's protective order, counsel for AdHoc and AdHoc's economic consultants at Economics and Technology, Inc. executed acknowledgments of confidentiality and served them upon counsel for the petitioner on September 19, 2006. On September 20, 2006, the Petitioner provided a copy of what it described as "Verizon's proprietary information as contained in the September 6, 2006 confidential filing"³ in this docket. The information supplied by Verizon was, however, incomplete. The supposedly unredacted versions of the Petitions and Attachments which Verizon provided to AdHoc were missing what the motion to compel describes as "CLEC and customer-proprietary" data. Specifically, Verizon did not supply E911 listing counts for any of the six petitions even though that data is the primary basis for most of Verizon's claims in this proceeding.

By way of illustration, Verizon's Petition for the "Boston MSA" is missing aggregated E911 data for three companies (on page 7) and 16 instances of carrier-specific E911 Data in Attachment A – the Declaration of Quintin Lew, Judy Verses and Patrick Garzillo (paragraphs 17, 19, 20, 21, 48-54, 56, 58 and 60.) In addition, paragraph 59 of the same Declaration is missing approximately 2 lines of proprietary text. Because Verizon has provided no citations to the data, it is impossible to determine the nature of this missing data. AdHoc's review of

³ Letter from Tamara Barnett, Federal Regulatory Specialist, Verizon, to Michaelleen Terrana, Legal Assistant, Levine, Blaszak, Block & Boothby, LLP (Sept. 20, 2006).

the data supporting each of the other petitions revealed identical missing data, although the page numbers and paragraph listings vary slightly in each case.

Verizon's failure to comply with the Commission's protective order by providing the evidence that supposedly supports its forbearance petitions denies interested parties like AdHoc an opportunity to participate in this proceeding. The Commission must therefore direct Verizon to comply with the protective order by producing the data it has withheld and upon which it chose to rely. If Verizon is unable to share the data with AdHoc and similarly situated parties due to contractual obligations, then the Commission must dismiss the petition for failing to make a *prima facie* showing that would justify a grant of the relief Verizon now seeks under the substantive standard in Section 160(a). It was Verizon's choice to support its petition almost exclusively with evidence that it is apparently bound by contract to keep confidential. The Commission cannot allow Verizon's choice of evidence and attendant contractual obligations to penalize AdHoc and parties like it by denying them an opportunity to review the evidentiary record and comment upon the forbearance Verizon requests, particularly when the Commission has taken adequate steps to preserve the confidentiality of the data through its protective order.

Nor can Verizon complain that the Commission is disserving the public interest by dismissing Verizon's petitions on the merits. If the only evidence Verizon can produce to support its forbearance requests is the confidential E911 listings of its competitors, then the six markets at issue in the petitions could not be ripe for regulatory forbearance. Robust competition is not a stealth attribute in

the marketplace. If the six MSAs addressed by Verizon's petitions were truly competitive, the evidence of competition would not be limited to the E911 listings of Verizon's competitors.

If the Commission does not dismiss the instant petitions and instead requires Verizon to comply with the protective order and disclose the evidence it has withheld, then the Commission must require disclosure to all interested parties, including AdHoc, not just the CLEC parties who filed the motion to compel. As is true of the CLEC parties, AdHoc would be denied *de facto* the notice and opportunity to comment to which it is entitled if the Commission permits Verizon to selectively withhold evidence from interested parties who have complied with the Commission's protective order. Accordingly, any relief ordered by the Commission must be available to all such parties.

Respectfully submitted,

ADHOC TELECOMMUNICATIONS
USERS COMMITTEE

By:

A handwritten signature in cursive script that reads "Colleen Boothby". The signature is written in dark ink and is positioned above a horizontal line.

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Certificate of Service

I, Colleen Boothby, hereby certify that true and correct copies of the preceding Comments of AdHoc Telecommunications Users Committee were filed this 30th day of October, 2006 via the FCC's ECFS system and by email to:

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